

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

DANNIE McMILLON

PLAINTIFF

V.

CIVIL ACTION NO. 3:08-CV-208-DPJ-JCS

**MICHAEL J. ASTRUE,
Commissioner of Social Security**

DEFENDANT

AGREED JUDGMENT

Pursuant to the power of this Court to enter a judgment affirming, modifying or reversing the Commissioner's decision with remand in Social Security actions under sentence four of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), and in light of the government's request to remand this action for further development of the record by an administrative law judge ("ALJ"),

IT IS HEREBY ORDERED that, upon remand, the Appeals Council will instruct the ALJ to conduct a new hearing and issue a new decision. Further the Appeals Council shall instruct the ALJ to consider if the claimant's mental retardation is a severe impairment, and whether or not Plaintiff is literate. If Plaintiff is found to be literate, the ALJ should explain how the evidence supports the conclusion. The Appeals Council shall also instruct the ALJ to obtain medical expert testimony regarding Plaintiff's mental impairments and Plaintiff's diabetic neuropathy. Finally, the Appeals Council shall instruct the ALJ to obtain supplemental vocational expert testimony, if it is warranted.

Therefore, this Court hereby reverses the Commissioner's decision under sentence four of 42 U.S.C. § 405(g) with a remand of the cause to the Commissioner for further proceedings. See Melkonyan v. Sullivan, 501 U.S. 89 (1991).

SO ORDERED this 18th day of December, 2009.

/s/ James C. Sumner
UNITED STATES MAGISTRATE JUDGE

AGREED:

s/Edward O. Pearson
EDWARD O. PEARSON
Assistant United States Attorney

s/Elizabeth Bower Dunlap
ELIZABETH BOWER DUNLAP
Attorney for Plaintiff